

Applicant: Bernalillo County
Zoning, Building, Planning &
Environmental Health Department
111 Union Station St. SE
Albuquerque, NM 87111

Property Owner: Jerry E. & Linda J. Depoy
579 Muscatel Ave. NE
Albuquerque, NM 87107

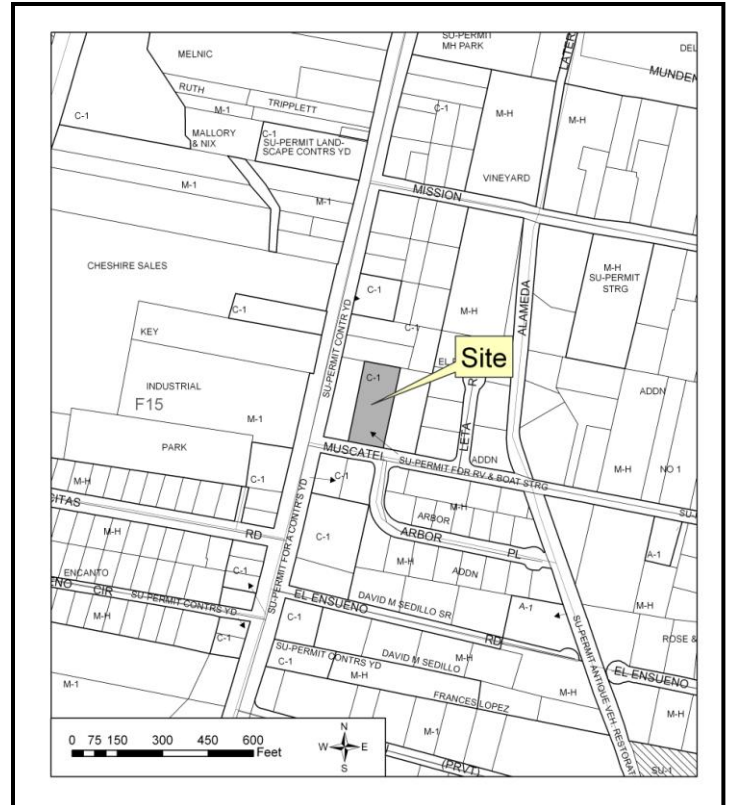
Location: 305 Muscatel Ave. NE

Property Size: .74 acres (approximately)

Existing SUP: Special Use Permit for RV
and Boat Storage

Zoning: C-1

Recommendation: Cancellation



Summary: The Zoning, Building, Planning & Environmental Health Department proposes cancellation of an existing Special Use Permit for a Specific Use for a RV and Boat Storage on a .74 acre property located on Muscatel Ave. to the east of Edith Blvd. (CSU-50012). Despite contact from the Zoning Enforcement Office, the parking, landscaping, and fencing on the site still do not comply with the approved site plan. Although the property owners have made some progress in addressing the initial concerns of staff, the violations of the Special Use Permit have yet to be fully addressed.

Staff Contact: Catherine VerEecke, Program Planner

Attachments:

1. Notice of Special Use Permit (6/30/05)
2. Notice of violation (2008)
3. Notice of intent to cancel SUP (3/1/10)
4. Zone Atlas page, land use map.
5. Approved site plan (8/26/05) (Commissioners only)

CSU-50012 Zoning, Building, Planning & Environmental Health Department requests cancellation of a Special Use Permit for a Specific Use for RV & Boat Storage on Lot B, Vineyard Addition Unit 1, located at 305 Muscatel Avenue NE, zoned C-1, and containing approximately .74 acres. (F-15)

AREA CHARACTERISTICS AND ZONING HISTORY

Surrounding Zoning & Land Uses

| | Zoning | Land use |
|--------------|--|--|
| Site | C-1/Special Use Permit for RV and Boat Storage | RV & Boat Storage, Single Family Residential |
| North | C-1 | Single Family Residential |
| South | C-1/Special Use Permit for Contractor's Yard | Single family residential/ Contractor/distributor |
| East | C-1 | Single Family Residential |
| West | C-1 | Vacant |

BACKGROUND

Special Use Permit History & Overview

On June 30, 2005, the Board of County Commissioners authorized a Special Use Permit for RV and Boat Storage on a .74 acre property located on the north side of Muscatel Ave. to the east of Edith Blvd. with C-1 zoning. The Special Use Permit was granted with 11 conditions of approval for a period of 10 years (Attachment 1—Notice of Decision). The property already included a 784 square foot single family dwelling that would be converted into a caretaker's residence. The approved site plan includes the caretaker's residence/office, paved spaces for RV/Boat Storage, and a 100 sq. ft. storage shed. The site plan also includes landscaping and a solid wall/fence along the east and north property lines that abut residential uses (Attachment 5--Approved site plan).

Since the time of the approval of the Special Use Permit request in 2005, the property has failed to comply with the approved site plan and conditions of approval. Beginning in 2006, letters were sent from the Zoning Enforcement Office indicating that the property was not in compliance with the approved site plan, with the last notice sent in 2008 (Attachment 2—Notice of Violation). The violations have included the failure to provide the following: paving for the storage area for the RVs and boats, paving and striping of the parking area (including handicapped parking) front, side and rear landscaping as shown on the site plan, and parking of trucks on the site. Although paving of the storage area has been provided, along with landscaping in the front of the property, no obvious actions were taken by the property owner to address the other violations. On March 1, 2010, the Zoning Administrator sent the property owner a letter of intent to cancel the Special Use Permit (Attachment 3—Letter of Intent).

Most recently, a follow-up inspection by staff revealed that the property does not comply with the approved site plan of the Special Use Permit. Parking spaces in the front of the site have not been fully paved according to the standards of Section 21 (solid surfacing, striping, bumpers). In addition, staff noted that the landscaping along the east and north sides of the property is incomplete and that a fence has been constructed nearby the residence on the property that is not shown on the site plan. A 100 square foot storage shed shown on the site plan was never constructed. Although some efforts were being made by the property owner to address some of these issues, at the time of the completion of this report, the property still was not in full compliance with the site plan.

Subject Site & Surrounding Properties

Although the property is located nearby an established residential subdivision (Vineyard Addition), the general vicinity of the site near Edith Blvd. has a mixture of uses. Generally, in this area on the east side of Edith Blvd., the first two lots from Edith Blvd. have C-1 zoning, although many appear not to be used for retail and have either heavy commercial uses or residential uses, including a number of rental properties. The property to the south of the site across Muscatel Rd. has a Special Use Permit for a Contractor's Yard (CSU-60034).

More specifically, the properties to the immediate east and north of the subject site have single family residences on them with residential uses, although they have C-1 zoning. The property to the west is vacant but has had different businesses on it over the last 10 years.

APPLICABLE REGULATIONS & POLICIES

Comprehensive Zoning Ordinance of Bernalillo County

Section 18. Special Use Permit Regulations.

H. Violation of the approved development plan or any condition imposed by the Board of County Commissioners in approving an application filed under this section shall constitute a violation of this ordinance and shall be subject the permit to cancellation pursuant to this section.

1. Procedures for Cancellation:

(a) The Zoning Administrator or his designee has the duty of routinely inspecting the Special Use Permit to insure compliance with the approved development plan and conditions imposed by the Board of County Commissioners.

(b) If the Zoning Administrator or his designee shall find that any of the conditions of the approved development plan or the conditions imposed by the Board of County Commissioners have not been complied with, they shall notify in writing, the owner, tenant, agent, occupant, or person in charge of the premises, indicating the nature of the violation and ordering its correction within 30 days.

(c) In an event that a violation of the approved development plan or conditions imposed by the Board of County Commissioners continues, the Zoning Administrator or his designee may institute the appropriate action to cancel the Special Use Permit pursuant to this section of proceed against the owner, tenant, agent, occupant, or person in charge of the premises, pursuant to the Penalty section of this Ordinance.

(d) Any violation o the approved development plan or conditions imposed by the Board of County Commissioners that continues for a period of 30 days after notification by certified mail receipt return requested shall subject the Special Use Permit to cancellation pursuant to the process outlined under Section 18.E., Subsections 1, 2, and 3. In the event that the Special Use Permit is cancelled, all references to said Special Use Permit shall be removed from the official zoned maps by the County Planning Department.

2. In the event a use authorized by a Special Use Permit is not established within 12 months of the date of approval or is discontinued for a period of 12 months, the County Planning Department shall send notification by certified mail return receipt requested requiring the property owner, tenant, agent, occupant, or person in charge of the premises to state in writing within 30 days his or her intention to establish or continue said permit. If the property owner, tenant, agent, occupant, or person in charge of the premises does not declare in writing his or her intention to establish or continue said permit, then authorization or approval may be cancelled and relevant documents, if any, shall be removed from the official zone maps by the County Planning Department.

ANALYSIS

This request seeks to cancel a Special Use Permit for a Specific Use for RV and Boat Storage on a .74 acre property located on Muscatel Ave. to the east of Edith Blvd. The property, which has an underlying zoning of C-1, is located adjacent to residential properties to the north and east, so that conditions approved by the Board of County Commissioners in 2005 took into

account the need to minimize the impact of the uses on the neighborhood. Since the Special Use Permit was approved in 2005, there have been a number of issues with the property's meeting conditions of approval and compliance with the approved site plan, particularly with paving the parking areas, and more recently with maintaining required landscaping on the property. In addition, a fence has been added on the property that is not shown on the site plan. Because of the continued non-compliance of the property with the approved site plan, staff has brought this case forward for cancellation of the Special Use Permit.

As Special Use Permits authorize land uses that are not expected or generally allowed to occur within a zone, compliance with any and all limitations is required. The subject property still has a number of violations of the Special Use Permit on the property which must be addressed to bring the property into compliance including landscaping, parking, and fencing. Staff also noted that the 100 square foot proposed storage structure was never constructed.

The short term solution to this matter may appear to be advisement from the County to the property owner for compliance with the approved site plan and conditions of approval. However, it should be noted that this matter has been turned over from the Zoning Enforcement Office for cancellation because of the limited effort demonstrated since the 2005 approval of the Special Use Permit to remedy the violations and ensure observance of the applicable standards.

Proposed Findings for Cancellation

1. This is a request for cancellation of a Special Use Permit for a Specific Use for RV & Boat Storage on Lot B, Vineyard Addition Unit 1, located at 305 Muscatel Avenue NE, zoned C-1, and containing approximately .74 acres.
2. This matter is a result of continued violations of the Special Use Permit (CSU-50012) and the corresponding site development plan approved for the permit, approved on 6/30/05.
3. The property has failed to comply with the approved site development plan in paving and parking spaces do not comply with the requirements for parking in Section 21 of the Zoning Ordinance (paving, bumpers), and a fence has been added on the property. The property also lacks sufficient landscaping along the north and east property lines.
4. The Bernalillo County Zoning Administrator notified the property owner of noncompliance with the provisions of the Special Use Permit on 3/1/10, as described in Section 18.H. of the Comprehensive Zoning Ordinance of Bernalillo County.
5. This decision removes the Special Use Permit (CSU-50012) from the property, and reverts the zoning on the site back to the underlying zoning designation of C-1 (Neighborhood Commercial Zone).

RECOMMENDATION:

Cancellation of CSU-50012.

Catherine VerEecke
Program Planner